



File No. S2-30613  
WR Doc ID 5693231

State of Washington  
Report of Examination for Water Right

PRIORITY DATE  
February 4, 2013

WATER RIGHT NUMBER  
S2-30613

MAILING ADDRESS  
AMARPREETPAL SINGH AND HARPREETPAL  
SINGH  
12221 SE 236<sup>TH</sup> CT  
KENT, WA 98031

SITE ADDRESS (IF DIFFERENT)  
*No site address in County parcel record*  
Open farm land  
Parcels WK0302002, WK0401001, and WK0401002

Total Quantity Authorized for Withdrawal or Diversion

WITHDRAWAL OR DIVERSION RATE	UNITS	ANNUAL QUANTITY (AF/YR)
2	CFS	230

Purpose

PURPOSE	WITHDRAWAL OR DIVERSION RATE		UNITS	ANNUAL QUANTITY (AF/YR)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON-ADDITIVE		ADDITIVE	NON-ADDITIVE	
Irrigation	2		CFS	230	N/A	Continuously

REMARKS: The application is for year-round irrigation of 115 acres along the lower Cowlitz River

ADDITIVE	IRRIGATED ACRES		PUBLIC WATER SYSTEM INFORMATION	
	NON-ADDITIVE		WATER SYSTEM ID	CONNECTIONS
115	N/A		N/A	N/A

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
Cowlitz	Cowlitz River	Columbia River	26- Cowlitz Basin

SOURCE FACILITY/DEVICE	PARCEL	WELL TAG	TWN	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
River diversion facility	WK0401002	TBD	10N	02W	4	E ½ of NE ¼	46.380881	-122.931142

TBD= To Be Determined

**Place of Use**

Farmable land of parcels WK0401001, WK0302002, and WK0401002 located along 4,000 feet of the Cowlitz River east bank at river mile 26 approximately one mile above the point where Olequa Creek takes confluence with the Cowlitz River (See Figures 1 and 2)

**LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE**

115 acres within the west  $\frac{1}{4}$  of section 3 and the east  $\frac{1}{4}$  of section 4, Township 10N, R02W, WM

**Proposed Works**

The diversion will be accomplished using a portable pump presumably situated at various points along the roughly 2,500 feet of river bank controlled by the property. The primary point of diversion identified in the application is at the southern (downstream) end of parcel WK0401002 at river mile 25.7 on the east bank of the Cowlitz River.

**Development Schedule**

BEGIN PROJECT  
August 1, 2014

COMPLETE PROJECT  
August 1, 2020

PUT WATER TO FULL USE  
August 1, 2023

**Measurement of Water Use**

The portable pumping equipment will be equipped with a meter that will record all water use	Continually when diversion is occurring
How often must water use data be reported to Ecology?	Annually
What volume should be reported?	Total Annual Volume
What rate should be reported?	Annual Peak Rate of Withdrawal (cfs)

**Provisions**

The facility shall be operated so as to protect the fishery of the Cowlitz River. The intake of the portable pump must have WDFW approved fish screen and intake should be designed such that it has as low an impact on habitat as is practical.

Reasonable efficiency shall be maintained in the exercise of the water right

**Measurements, Monitoring, Metering and Reporting**

An approved measuring device such as a recording meter must be installed and maintained for the diversion point identified by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use," WAC 173-173.

WAC 173-173 describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition the Department of Ecology for modifications to some of the requirements.

**Department of Fish and Wildlife Requirement(s)**

The intake(s) must be constructed in accordance with the Department of Fish and Wildlife screening criteria (pursuant to RCW 77.57.010, RCW 77.57.070, and RCW 77.57.040).

**Easement and Right-of-Way**

The water source and/or water-transmission facilities are not wholly located upon land owned by the applicant. Issuance of a water right by this department does not convey a right of access to, or other right to use, land which the applicant does not legally possess. Obtaining such a right is a private matter between applicant and owner of that land.

**Water Use Efficiency**

Use of water under this authorization will be contingent upon the water right holder's maintenance of efficient water delivery systems and use of up-to-date water conservation practices consistent with established regulation requirements and facility capabilities.

**Proof of Appropriation**

The water right holder must file the notice of Proof of Appropriation of water when the irrigation system has been constructed and the quantity of water required up to the maximum stated in the water right permit has been put to full beneficial use. The certificate will reflect the extent of the project that has been perfected. Elements of a proof inspection may include, as appropriate, the source(s), system instantaneous capacity, beneficial use, annual quantity, place of use, and satisfaction of provisions.

**Schedule and Inspections**

Department of Ecology personnel, upon presentation of proper credentials, will have access at reasonable times, to the project location, and to inspect at reasonable times, records of water use, diversions, measuring devices and associated systems for compliance with water law.

**Findings of Facts**

Upon reviewing the investigator's report, I find all facts relevant and material to the subject application, have been thoroughly investigated. Furthermore, I find the issuance of this water right as recommended will not be detrimental to existing rights or the public welfare.

Therefore, I ORDER the requested allocation of 2 cfs and 230 acre feet per year from the Cowlitz River for irrigation of 115 acres and other incidental farm uses be issued, subject to existing rights and the provisions specified above.

**Your Right To Appeal**

You have a right to appeal this Order to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do the following within 30 days of the date of receipt of the Order.

File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.

- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.
- You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

Street Addresses	Mailing Addresses
<b>Department of Ecology</b> Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	<b>Department of Ecology</b> Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
<b>Pollution Control Hearings Board</b> 1111 Israel RD SW Ste 301 Tumwater, WA 98501	<b>Pollution Control Hearings Board</b> PO Box 40903 Olympia, WA 98504-0903

Signed at City, Washington, this 18<sup>th</sup> day of August 2014.

*A-M. Swerton for  
Michael Gallagher*

Michael J. Gallagher, Section Manager  
 Water Resources Program/SWRO  
 Department of Ecology

For additional information visit the Environmental Hearings Office Website: <http://www.eho.wa.gov>. To find laws and agency rules visit the Washington State Legislature Website: <http://www1.leg.wa.gov/CodeReviser>.

## INVESTIGATOR'S REPORT

Application for Water Right – Amarpreetpal and Harpreetpal Singh

Water Right Control Number S2-30613

Mike Gallagher, Department of Ecology

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## BACKGROUND

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This report, prepared by Robinson Noble, Inc., serves as the written findings of fact concerning Water Right Application Number S2-30613.

### *Cost Reimbursement*

This application is being processed under a cost reimbursement agreement between the applicant and the Department of Ecology. Robinson Noble hydrogeologist, F. Michael Krautkramer, conducted a site visit on July 10, 2013. Also present were Amarpreetpal and Harpreetpal Singh representing the applicant.

**Table 1 Summary of Requested Water Right**

<b>Applicant Name:</b>	<b>Amarpreetpal and Harpreetpal Singh</b>
<b>Date of Application:</b>	<b>2/4/2013</b>
<b>Place of Use:</b>	<b>Irrigation of 115 acres Cowlitz County parcels WK0401001, WK0401002 &amp; WK0302002</b>

<b>County</b>	<b>Waterbody</b>	<b>Tributary To</b>	<b>WRIA</b>
Cowlitz	Cowlitz River	Columbia River	26-Cowlitz

<b>Purpose</b>	<b>Rate</b>	<b>Unit</b>	<b>Ac-ft/yr</b>	<b>Begin Season</b>	<b>End Season</b>
Irrigation and incidental farm use	2	cfs	230	01/01	12/31

<b>Source Name</b>	<b>Parcel</b>	<b>Well Tag</b>	<b>Twp</b>	<b>Rng</b>	<b>Sec</b>	<b>QQ Q</b>	<b>Latitude</b>	<b>Longitude</b>
Cowlitz River	WK0401002	N/A	10N	02W	4	E½/NE	46.380881	122.931142

CFS = Cubic feet per second; Ac-ft/yr = Acre-feet per year; Sec. = Section; QQ Q = Quarter-quarter of a section; WRIA = Water Resource Inventory Area; E.W.M. = East of the Willamette Meridian; Datum: NAD83/WGS84.

### Legal Requirements for Approval of Appropriation of Water

#### Public Notice

RCW 90.03.280 requires that notice of a water right application be published once a week, for two consecutive weeks, in a newspaper of general circulation in the county or counties where the water is to be stored, diverted and used. Notice of this application was initially published in The Daily News on March 15, 2013 and again on March 22, 2013. An amendment to the application increasing the instantaneous allocation from 1 cfs to 2 cfs was filed in July of 2013. This required that advertisement be accomplished a second time. This second advertisement was also published in The Daily News. The dates of the second advertisement were August 14 and August 21, 2013. No protests or any letters of concern were received.

#### *Consultation with the Department of Fish and Wildlife*

The Department must give notice to the Department of Fish and Wildlife (WDFW) of applications to divert, withdraw, or store water. The WDFW initially submitted a letter recommending denial of the application. This response was predicated on the fact that the Cowlitz Watershed Plan, as written at that time, closed allocation from the main stem of the Cowlitz River. However, the Watershed Plan was amended by the Watershed Planning Unit in a vote taken November 14, 2013. The technical findings associated with the Amended Watershed Plan indicate that the allocation is available from the Cowlitz River main stem. Since Hal Beecher of WDFW played a major role in reaching those findings, WDFW indicated in a meeting with Ecology held on December 16, 2013 that the amendment of the Watershed Plan removes their stated concern. WDFW requires that standard surface water intake protection measures, as well as source metering and reporting, to ensure ongoing compliance with conditions to the water right be accomplished.

### *State Environmental Policy Act (SEPA)*

This surface water right application is exempt from SEPA because it requests less than 5 cubic feet per second (request is for 2 cfs) for agricultural irrigation purposes.

### *Competing Senior Water-Right Applications*

Cost-reimbursement agreements typically require that processing of senior applications be accomplished where there is expectation that the issuance of the junior application would have implications to the senior applicant. Ecology records indicate that there are 5 senior applications pending in the Cowlitz Basin. However, none of these applications would be affected by the issuance of the subject application. The total requested allocation of the senior applications is 1.156 cfs which is not significant in the context of Cowlitz River flows. Further, the revision of the Cowlitz Watershed Plan clearly states that water is available from the main stem of the Cowlitz River in quantities much greater than the cumulative request of these applications. There is no need to include these senior applications in the processing of the subject application.

## **INVESTIGATION**

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### Proposed Use and Basis of Water Demand

Applicant proposes to operate a farm along the eastern bank of the Cowlitz River. The intent is to use 2 cfs supplied from a series of diversion points employing a mobile pumping facility on the east bank of the Cowlitz River. The water will be produced using a portable pump with a primary point of diversion situated at the southern end of parcel WK0401002 (latitude 46.380881, longitude 122.931142) with the probability that up to three other points of diversion would be employed further upstream along the 2,300 feet of river front of that parcel. The intent is to irrigate 115 acres of floodplain terrain situated on the bank and east of the Cowlitz River. The planned irrigated acreage encompasses parcels WK0401001 (68.87 acres), WK0401002 (4.3 acres), and WK0302002 (42.73 acres). The field visit established that the subject property is irrigable and suitable for the proposed farm operation. The farm is currently planning to raise blueberries but will grow other crops while the blueberry plants are progressively introduced. As with most farming, the applicant reserves the right to plant different crops in response to market and climate conditions. Based on the Washington Irrigation Guide, the anticipated demand for irrigation of the 115 acres would be between 188 and 216 acre feet per year depending on the crop and irrigation method used. Some water is also required for incidental water use in operating the farm (14 acre feet). It is reasonable to conclude that the annual requirement could be as high as 230 acre feet. If the actual use is less at the time the proof of appropriation is submitted, the adjustment to a lower annual allocation would occur upon movement to certificate.

The irrigation system has not been designed at this juncture. The diversion is to be accomplished using a portable pump with its primary intake point at the southern end of the riverbank parcel and up to three other points of diversion established further upstream on the same parcel to facilitate more cost-effective irrigation of various portions of the 115 acre farm. Irrigation water will be delivered to the parcels east of Imboden Road through piping beneath the road. The engineering of the transmission system and related road crossings has not been accomplished at this point in the farm plan development per discussion with the applicants during the field visit. The viability of such plans is beyond the scope of this investigation and the responsibility for this aspect of the use rests with the water right holder. Confirmation of the transmission facilities will be made with the proof of appropriation.

### Geographic Setting of the Place of Use and points of Diversion

The property to be farmed with the water requested in application S1-30613 is located east of the Cowlitz River about 4,800 feet above the confluence with Olequa Creek as shown on Figures 1 and 2. The farm is situated on alluvial deposits of the flood plain of the Cowlitz River at an elevation of roughly 65 feet above sea level. The soils are mapped as being of the Caples-Clato-Newburg soil series (Soil Survey of Cowlitz County, Russel F. Pringle, Natural Resources Conservation Service, and Robert L. Evans, Washington Department of Natural Resources, 2006). These soils are conducive to the proposed farming and are typically exhibited as silty loam or clayey loam to a depth of 60 inches. As part of the floodplain of the Cowlitz, the property is relatively flat and conducive to irrigated agriculture. Much of this information is provided in the applicant's February 13, 2012 Phase 1 Report written by Pacific Groundwater Group.

### Other Rights Appurtenant to the Place of Use

The applicant does not hold any other water rights appurtenant to the intended place of use.

The Department of Ecology Water Rights Tracking System (WRTS) was accessed to locate surface or ground water rights that are physically near the diversion from the Cowlitz River proposed in S2-30613. No other surface or groundwater rights or claims were found for the area east of the river in sections 5 and 32.

### Impairment Considerations

The diversion of 2 cfs from the Cowlitz River will not significantly change the flow with regard to existing surface water rights, and therefore, does not have the potential to impair senior surface water rights on the river. There is no mechanism through which the diversion of water from this surface water body could impact groundwater systems of the area or any groundwater rights associated with those groundwater systems.

### Water Availability

For water to be available for appropriation, it must be both physically and legally available.

#### *Physical Availability*

The availability of water from the mainstem of the Cowlitz River is indicated in the technical findings of the investigations of the Fish and Flow Group of the WRIA 25/26 Planning Unit. These investigations, which occurred over a 3-year period and included substantial participation by WDFW and the Department of Ecology, represent the best available information regarding water availability on the pertinent reach of the Cowlitz River. These findings are summarized in the revised WRIA 25/26 Watershed Plan adopted by the Planning Unit in its meeting of November 14, 2013. The findings clearly state that Cowlitz River water is available for allocation. The water of the Cowlitz River is of sufficient quality to meet the intended need of the applicant and the flow of the Cowlitz at the proposed point of diversion is sufficiently high that the proposed 2 cfs diversion rate is not significant in the context of the natural functions of the river. The flows of the Cowlitz River below Mayfield Dam are established in the operations plans for Mossyrock and Mayfield Dams. The current flow requirements are set in an agreement reached between the City of Tacoma and Washington Department of Fish and Wildlife entered into in November 1997. The requested water is physically available for allocation.



### *Legal availability*

The legal availability of the requested water is best discussed in the context of the Cowlitz basin Watershed Plan which has recently been amended (11-14-13). The findings of the Fish and Flow Group accomplished for the amended plan which was developed with input from WDFW. The Department of Ecology also participated in this process and accepted the technical findings. The findings clearly state that the main stem of the Cowlitz River is open to allocation. Since there is no potential for the allocation to impair existing water rights, and instream considerations do not constrain the allocation, the water is legally available for this water right to be issued.

### **Beneficial Use**

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Farming is a long-recognized beneficial use of water, and the proposed use is defined as beneficial in statute (RCW 90.54.020(1)).

### **Public Interest Considerations**

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Nothing in this application is contrary to the public interest or would suggest the water right be constrained in any way to protect public interest.

### *Consideration of Protests and Comments*

No protests or letters of concern were received as a result of either the initial advertisement or the second advertisement required for the amendment of the application. The consultation with WDFW resulted in an initial letter expressing concern. That concern was predicated on the WRIA 25/26 Watershed Plan as it was before being amended. The amendment of the plan in November 2013 caused the WDFW to withdraw its concerns as expressed by Steve Boessow in a December 16, 2013 meeting with Ecology. Comments were received by the Center for Environmental Law and Policy (CELP) after the draft ROE was posted for review. These comments were addressed and, where appropriate, revisions to this document were made.

### **Conclusions**

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The requested allocation for 2 cfs and 230 acre feet of water per year to be exercised for the purpose of irrigating 11.5 acres of farm land adjacent to the Lower Cowlitz River is an appropriate use of the waters of the State. Nothing in this investigation suggests that other water right holders would be impaired or that the biological, aesthetical, recreational, navigational, or water quality functions of the Cowlitz River would be threatened by the requested allocation. The allocation of this water is not contrary to the public interest and the water is available for this beneficial use.

### **RECOMMENDATIONS**

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Based on the above investigation and conclusions, I recommend that this request for the diversion of 2 cfs from the Cowlitz River with an annual diversion of no more than 230 acre feet be approved within the limitations listed below and subject to the provisions listed above.

### **Purpose of Use and Authorized Quantities**

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The amount of water recommended is a maximum limit and the water user may only use that amount of water within the specified limit that is reasonable and beneficial:

- 2.0 cfs, (898 gpm)
- 230 acre-feet per year

- Irrigation of 115 acres.
- Points of Diversion
  - SW¼, SE¼, Section 32, Township 39 North, Range 2 E, W.M., Parcel 390232291054
  - NW¼, SE¼, Section 5, Township 38 North, Range 2 E, W.M., Parcel 380205235240
  - NW¼, SE¼, Section 5, Township 38 North, Range 2 E, W.M., Parcel 380205163176
- Place of Use-See Page 1

*If you need this publication in an alternate format, please call Water Resources Program at (360) 407-6600. Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call 877-833-6341.*

### Selected References

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Pacific Groundwater Group, Phase 1 CRA Report for Surface Water Application S2-30613 Imboden Road Site, letter to Department of Ecology, February 13, 2012

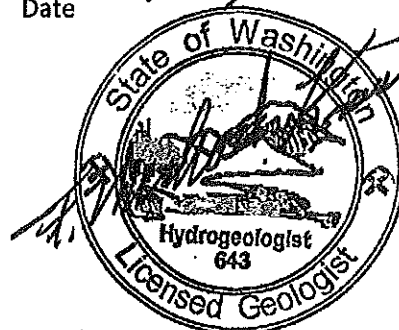
Grays-Elochoman and Cowlitz Watershed Management Plan, WRIA 25 and 26, LCFRB, July 2006

WRIA 26 Water Supply and Stream Flow Review – Findings and Recommendations, LCFRB, November 14, 2013

Winlock Quadrangle, USGS 7.5 Minute Topographic Series, 1985

Castle Rock Quadrangle, USGS 7.5 Minute Topographic Series, 1984

Reported by: F. Michael Krauthamer 8/13/14  
Report Writer Date



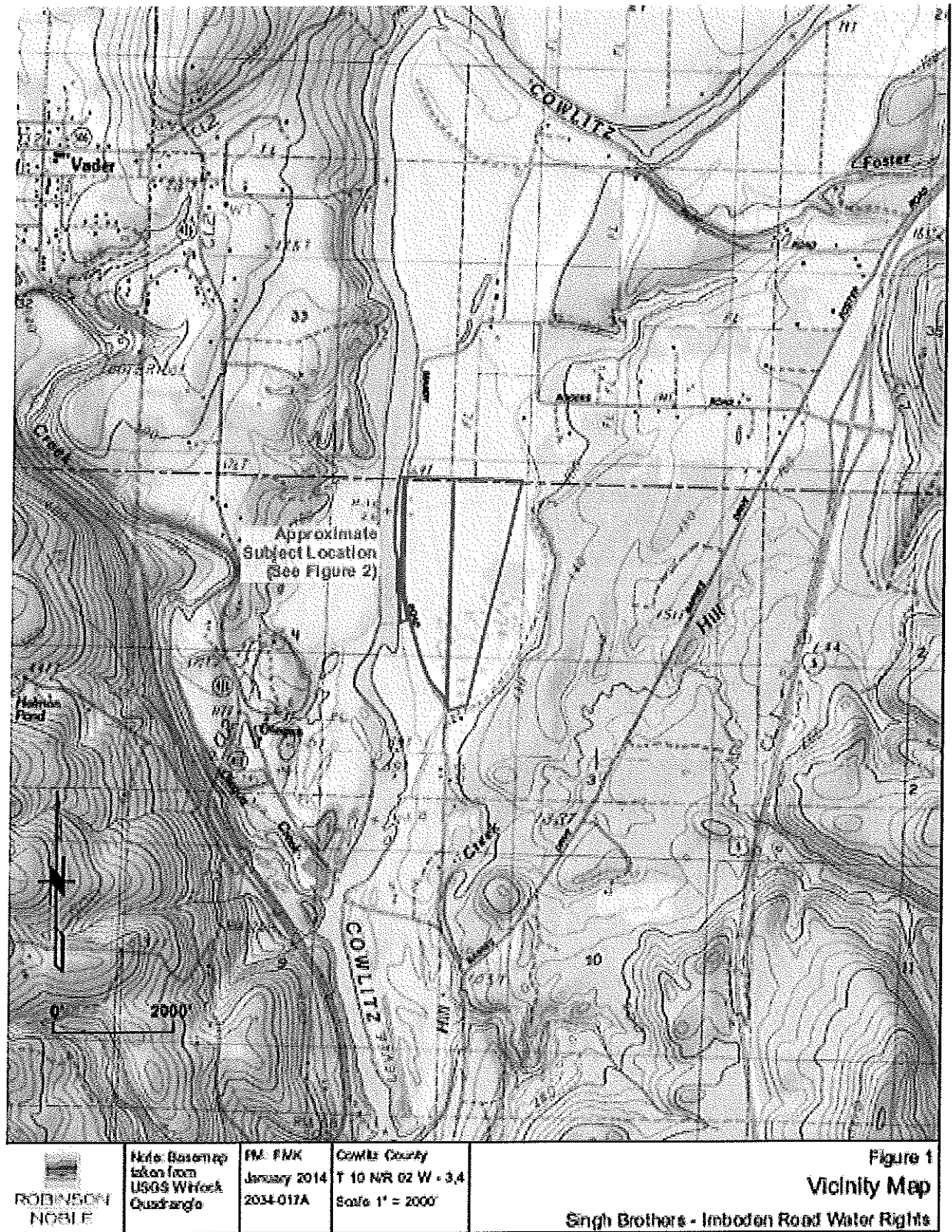
F. MICHAEL KRAUTKRAMER

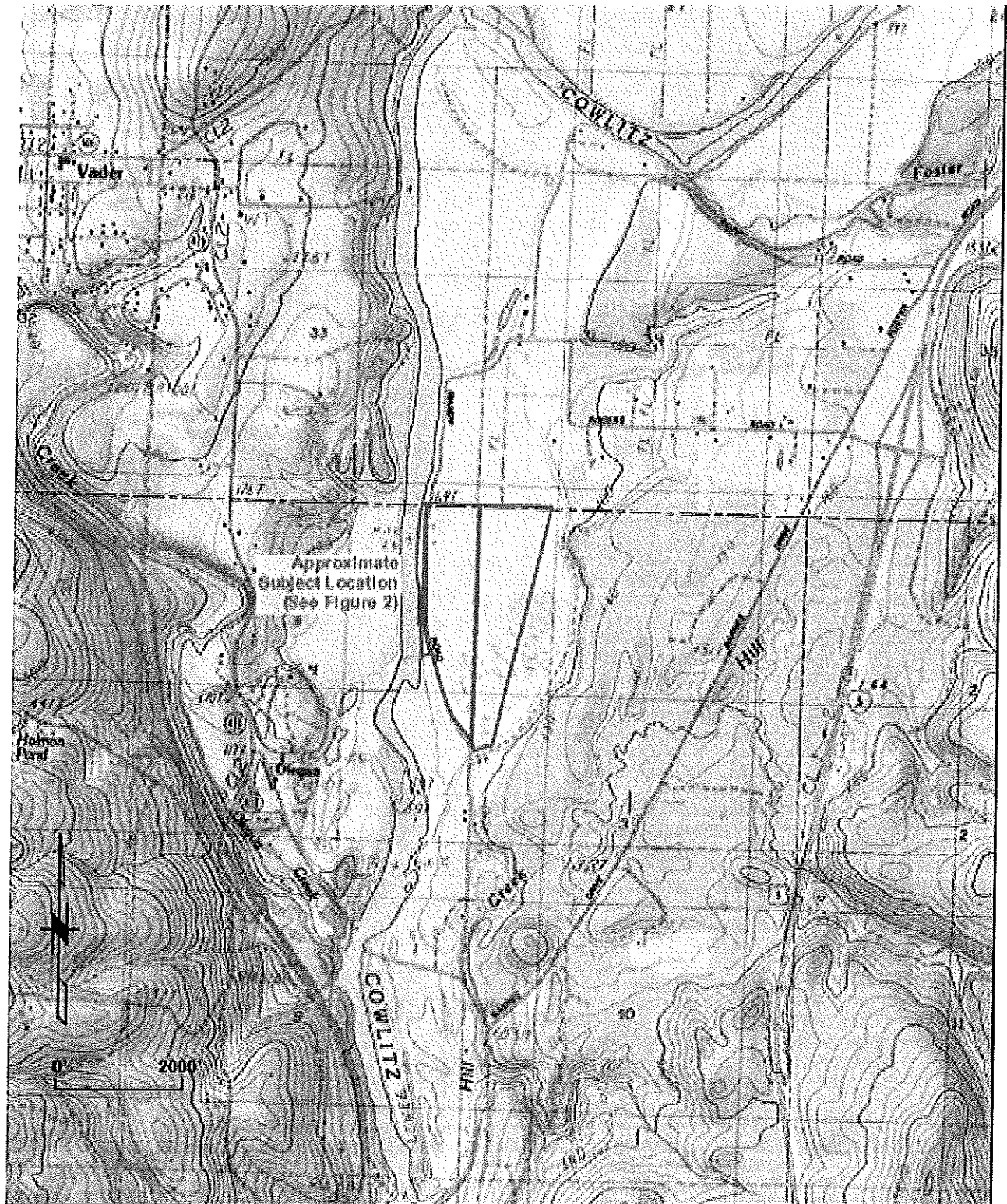
Reported by: F. Michael Krauthamer 8/13/14  
Hydrogeologist Date


Reviewed by: Tammy Hall 8/14/2014  
Tammy Hall, Water Resources Program Date

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 <b>ROBINSON NOBLE</b>	Note: Basemap taken from USGS Winkler Quadrangle	PM: FMX January 2014 2034-017A	Cowitz County T 10 N R 02 W - 3A Scale 1" = 2000'	<div>Figure 1</div> <div>Vicinity Map</div> <div>Singh Brothers - Imboden Road Water Rights</div>
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